

PACHULSKI STANG ZIEHL & JONES LLP
Jeffrey N. Pomerantz (CA Bar No. 143717) (*admitted pro hac vice*)
John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
Gregory V. Demo (NY Bar No. 5371992) (*admitted pro hac vice*)
Hayley R. Winograd (NY Bar No. 5612569) (*admitted pro hac vice*)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760

HAYWARD PLLC
Melissa S. Hayward (TX Bar No. 24044908)
MHayward@HaywardFirm.com
Zachery Z. Annable (TX Bar No. 24053075)
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, TX 75231
Telephone: (972) 755-7100
Facsimile: (972) 755-7110

Counsel for the Reorganized Debtor and the Highland Claimant Trust

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: §
§ Chapter 11
§
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ § Case No. 19-34054-sgj11
§
Reorganized Debtor. §

**AMENDED NOTICE OF FILING OF LIST OF ACTIVE LITIGATION
INVOLVING AND/OR AFFECTING THE HIGHLAND PARTIES**

PLEASE TAKE NOTICE that, pursuant to the Court's *Order (A) Continuing Hearing on Motion to Stay and to Compel Mediation [Dkt. 3752] and (B) Directing Certain Actions in Advance of Continued Hearing* [Docket No. 3870], Highland Capital Management, L.P., the reorganized debtor in the above-captioned bankruptcy case, and the Highland Claimant Trust (collectively, the "Highland Parties"), hereby file the amended list (the "Amended List") attached hereto as **Exhibit A** identifying all active litigation involving and/or affecting the Highland Parties and/or their current

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are 8357. The headquarters and service address for the Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

or former officers, directors, employees, affiliates, or other related entities that was commenced by or against James Dondero or entities or individuals affiliated or associated with him. The Amended List contains two additional matters that were inadvertently omitted from the original list of litigation filed on July 6, 2023 at Docket No. 3873. These two additional entries on the Amended List are highlighted for the Court's convenience.

[Remainder of Page Intentionally Left Blank]

Dated: July 14, 2023

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)
John A. Morris (NY Bar No. 2405397)
Gregory V. Demo (NY Bar No. 5371992)
Hayley R. Winograd (NY Bar No. 5612569)
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
Email: jpomerantz@pszjlaw.com
jmorris@pszjlaw.com
gdemo@pszjlaw.com
hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

/s/ Zachery Z. Annable _____

Melissa S. Hayward
Texas Bar No. 24044908
MHayward@HaywardFirm.com
Zachery Z. Annable
Texas Bar No. 24053075
ZAnnable@HaywardFirm.com
10501 N. Central Expy, Ste. 106
Dallas, Texas 75231
Tel: (972) 755-7100
Fax: (972) 755-7110

*Counsel for the Reorganized Debtor and
the Highland Claimant Trust*

EXHIBIT A

Disclosure of Active Dondero-Related Litigation Pursuant to Court Order
Dated July 1, 2023 [Docket No. 3870] (As of July 14, 2023)

Highland Capital Management, L.P. (“Highland”) and the Highland Claimant Trust (together with Highland, the “Highland Parties”), by and through their undersigned counsel, pursuant to this Court’s *Order*, dated July 1, 2023 [Docket No. 3870], hereby disclose that the following actions are actively pending between James Dondero (and/or entities and/or individuals affiliated or associated with him) (collectively, the “Dondero Parties”), on the one hand, and the Highland Parties (and/or entities and/or individuals affiliated or associated with at least one of them), on the other:¹

Active Proceedings in this Court	6
Active Appeals and Actions in the Northern District of Texas	6
Active Appeals in the Fifth Circuit	7
Active Petitions for Writs of Certiorari Pending in the Supreme Court	2
Other Active Proceedings with or Affecting the Highland Parties	9
TOTAL: 30	

I. Active Proceedings and Matters in this Court (In re Highland Cap. Mgmt., L.P., Case No. 19-34054-sgj11 (Bankr. N.D. Tex.))

A. Main Docket

- *Hunter Mountain Investment Trust’s Emergency Motion for Leave to File Verified Adversary Petition* [Docket No. 3699] (matter is *sub judice*)
- *James. D. Dondero, Dugaboy Investment Trust, Get Good Trust, and Strand Advisors, Inc.’s Motion to Stay and Motion to Compel Mediation* (the “Mediation Motion”) [Docket No. 3752] (matter continued to July 21, 2023)
- *The Dugaboy Investment Trust’s Motion to Preserve Evidence and Compel Forensic Imaging of James P. Seery, Jr.’s iPhone* [Docket No. 3802] (suspended pending Bankruptcy Court’s determination of Mediation Motion)

¹ The following is a summary of active pending actions only and does not include actions that were resolved by final orders, including actions finally resolved after appeals to the U.S. District Court for the Northern District of Texas and/or the U.S. Court of Appeals for the Fifth Circuit.

Disclosure of Active Dondero-Related Litigation Pursuant to Court Order
Dated July 1, 2023 [Docket No. 3870] (As of July 14, 2023)

- *Highland Capital Management, L.P.’s Motion for (a) Bad Faith Finding and (b) Attorneys’ Fees Against NexPoint Real Estate Partners LLC (f/k/a HCRE Partners LLC) in Connection with Proof of Claim 146* [Docket No. 3851] (suspended pending Bankruptcy Court’s determination of Mediation Motion)

B. Adversary Proceedings

- *Marc S. Kirschner, as Litigation Trustee v. James D. Dondero, et al.*, Adv. Proc. No. 21-03076-sgj (Bankr. N.D. Tex. Oct. 15, 2021) (voluntarily stayed until at least September 30, 2023)
- *The Dugaboy Investment Tr., et al. v. Highland Cap. Mgmt., L.P.*, Adv. Proc. No. 23-03038-sgj (Bankr. N.D. Tex. May 10, 2023) (suspended pending Bankruptcy Court’s determination of Mediation Motion)

II. Active Appeals and Actions in the U.S. District Court for the Northern District of Texas

- *Highland Cap. Mgmt., L.P. v. Highland Cap. Mgmt. Fund Advisors, L.P.*, Case No. 3:21-cv-00881-X (N.D. Tex.) (reports and recommendations entered recommending summary judgment in favor of Highland on the collection of approximately \$65 million in aggregate in Dondero-related notes; Dondero and related parties objected to reports and recommendations; on July 6, 2023, this Court adopted the report and recommendations and granted partial summary judgment; defendants have stated their intention to appeal)
- *Highland Cap. Mgmt., L.P. v. Highland Cap. Mgmt. Fund Advisors, L.P.*, Case No. 3:21-cv-00881-X (N.D. Tex.) [Docket No. 136] (Highland filed a motion to deem the Dondero parties vexatious litigants and for related relief)
- *Charitable DAF Fund, L.P., et al. v. Highland Cap. Mgmt., L.P.*, Case No. 3:21-cv-01585-S (N.D. Tex.) (Dondero-filed action seeking reconsideration of the July 2020 order appointing Seery as CEO/CRO and prohibiting actions against him without compliance with the gatekeeper; appeal abated pending resolution of the appeal of the second contempt order)
- *Charitable DAF Fund, L.P., et al. v. Highland Cap. Mgmt., L.P.*, Case No. 3:23-cv-01503-G (N.D. Tex.) (suit alleging Highland breached its fiduciary obligations by settling with HarbourVest; DAF filed motion to withdraw reference; report and recommendation entered recommending denial of withdrawal of reference; motion to dismiss granted; Dondero-related parties objected to report and recommendation and appealed motion to dismiss)
- *NexPoint Advisors, L.P., et al. v. Highland Cap. Mgmt., L.P.*, Case No. 3:22-cv-02170-S (NexPoint and HCMFA appeal of order denying admin claim and granting Highland’s breach of contract claim from Adv. Proc. No. 21-03010-sgj; matter is *sub judice*)

Disclosure of Active Dondero-Related Litigation Pursuant to Court Order
Dated July 1, 2023 [Docket No. 3870] (As of July 14, 2023)

- *NexPoint Advisors LP, et al. vs. Marc Kirschner, et al.*, Case No. 3:22-cv-00335-L (N.D. Tex.) (NexPoint appealed the order expunging a disputed employee claim it acquired in January 2022; briefing complete).

III. Active Appeals to the U.S. Court of Appeals for the Fifth Circuit

- *NexPoint Advisors, L.P. v. Pachulski Stang Ziehl & Jones, LLP, et al.*, Case No. 22-10575 (5th Cir.) (NexPoint appealed the final fee orders for nearly every estate professional; matter is *sub judice*)
- *James Dondero v. Highland Cap. Mgmt., L.P.*, Case No. 22-10889 (5th Cir.) (Dondero appealed order holding him in contempt for violating restraining order; matter has been fully briefed; oral argument is being scheduled)
- *The Dugaboy Investment Tr., et al. v. Highland Cap. Mgmt., L.P.*, Case No. 22-10960 (5th Cir.) (Dugaboy appealed order approving HarbourVest settlement; matter is *sub judice*)
- *The Dugaboy Investment Tr., et al. v. Highland Cap. Mgmt., L.P.*, Case No. 22-10983 (5th Cir.) (Dugaboy appealed order approving UBS settlement; matter is *sub judice*)
- *Charitable DAF Fund, et al. v. Highland Cap. Mgmt., L.P.*, Case No. 22-11036 (5th Cir.) (Dondero and related entities appealed order holding them in contempt for pursuing claims against Seery in violation of retention order; matter has been fully briefed; oral argument is being scheduled)
- *NexPoint Advisors, L.P., et al. v. Highland Cap. Mgmt., L.P.*, Case No. 23-10534 (5th Cir.) (NexPoint appealed the order conforming Highland's plan to the Fifth Circuit's order affirming the confirmation order; certified for direct appeal; briefing notice issued June 15, 2023)
- *CLO HoldCo, Ltd. v. Marc Kirschner*, Case No. 3:22-cv-02051-B [Docket No. 20] (NDTX) (CLOH appealed the order denying its request to ratify its Second Amended CLO HoldCo Crusader Claim [Proof of Claim No. 198]; appeal not yet docketed to Fifth Circuit)

IV. Active Petitions for Writs of Certiorari Pending in the U.S. Supreme Court

- Highland Capital Management, L.P., Petition for Writ of Certiorari (No. 22-631) (seeking review of Fifth Circuit's limitation of exculpation provision)
- NexPoint Advisors, L.P., Petition for Writ of Certiorari (No. 22-669) (seeking review of Fifth Circuit's granting of any exculpation and standard of care)

Disclosure of Active Dondero-Related Litigation Pursuant to Court Order
Dated July 1, 2023 [Docket No. 3870] (As of July 14, 2023)

V. Other Active Proceedings with or Affecting the Highland Parties

- *Highland Cap. Mgmt., L.P. v. SE Multifamily Holdings LLC, et al.*, Case No. 2023-0493 (Del. Chan.) (Highland filed complaint seeking specific performance of operating agreement to allow Highland to inspect books and records)
- *Ellington v. Daugherty*, Cause No. DC-22-00304 (101st Dist. Tex. 2022) (Ellington, Highland's former general counsel, sued Daugherty, a former Highland employee, for stalking; Ellington subpoenaed Highland's independent directors, Highland's bankruptcy counsel, and other parties to the bankruptcy case requiring a motion for a protective order in New Jersey; Ellington moved to hold an independent director in contempt; Ellington subpoenaed deposition of another independent director)
- *NexPoint Diversified Real Estate Tr. v. Acis Cap. Mgmt., et al.*, Case No. 21-cv-04384-GHW (S.D.N.Y. May 14, 2021) (the “NexPoint Action”) (NexPoint sued Acis, Josh Terry, US Bank, and Brigade alleging breach of fiduciary duty under the Investment Advisers Act, breach of contract, negligence, and conversion relating to management of Acis CLOs; Highland indirect proceeds being withheld to satisfy indemnification claims)
- *NexPoint Diversified Real Estate Tr. v. Acis Cap. Mgmt., et al.*, Case No. 22-1912 (2d Cir. 2022) (after NexPoint Action dismissed, NexPoint appealed to the Second Circuit; matter is *sub judice*; Highland indirect proceeds being withheld to satisfy indemnification claims)
- *NexPoint Diversified Real Estate Tr. v. Acis Cap. Mgmt., et al.*, Index No. 653654/2022 (N.Y. Sup. Ct. 2022) (after NexPoint Action dismissed, NexPoint re-filed its state law claims in the N.Y. state court; motions to dismiss *sub judice*; Highland indirect proceeds being withheld to satisfy indemnification claims)
- *CLO HoldCo Ltd. v. Highland CLO Funding, Ltd.*, No. 106-25786898-1 (Royal Court of Guernsey) (CLO Holdco, Ltd., filed an action for unfair prejudice alleging HCLOF prejudiced CLO Holdco by not suing Acis and US Bank and by colluding with Acis, Mr. Terry, Highland, and Mr. Seery to infringe CLO Holdco's rights; Highland indirect proceeds being withheld to satisfy indemnification claims)
- *U.S. Bank, N.A., et al. v. The Charitable Donor Advised Fund, L.P., et al.*, Case No. 23-cv-11059-GHW (S.D.N.Y. Dec. 24, 2021) (Acis, US Bank, and Mr. Terry sought a declaration that none of NexPoint, the DAF, or CLO Holdco had claims against them related to the Acis CLOs and after the defendants' motions to dismiss were denied, NexPoint, DAF, and CLO Holdco filed counterclaims alleging, among other things, that HCLOF breached its fiduciary obligations by settling its claims against Acis and Acis and US Bank aided and abetted that breach)

Disclosure of Active Dondero-Related Litigation Pursuant to Court Order
Dated July 1, 2023 [Docket No. 3870] (As of July 14, 2023)

- *In re Highland Select Equity Master Fund, L.P.*, Case No. 23-31037-swe7 (Bankr. N.D. Tex.) (debtor was sued by Dugaboy in S.D.N.Y. for alleged breach of contract; debtor has approximately \$635,000 in cash assets and pre- and post-petition offered to convey its cash and all remaining illiquid investments to Dugaboy to satisfy its claim; debtor moved to re-assign its case to the Honorable Stacey Jernigan; Dugaboy said it would object to re-assignment)
- *In re Highland Select Equity Fund GP, L.P.*, Case No. 23-31039-mv7 (Bankr. N.D. Tex.) (debtor was sued by Dugaboy in the S.D.N.Y. for general partner liability related to an alleged breach of contract; debtor has no assets; debtor moved to re-assign its case to the Honorable Stacey Jernigan; Dugaboy said it would object to re-assignment)